

Court of Appeals, State of Michigan

ORDER

RODNEY BROWN V LEPA ILISEVICH

Docket No. 294690

LC No. 2008-091867-NO

Kathleen Jansen
Presiding Judge

Mark J. Cavanagh

Henry William Saad
Judges

In lieu of granting defendant's delayed application for leave to appeal, pursuant to MCR 7.205(D)(2), the Court orders that the Oakland Circuit Court's April 2, 2009 opinion and order denying defendant's motion for summary disposition is REVERSED. Plaintiff's own deposition testimony established that the surface on which he slipped and fell was covered with snow. As a matter of law, "a snow-covered surface presents an open and obvious danger because of the high probability that it may be slippery." *Ververis v Hartfield Lanes*, 271 Mich App 61, 65; 718 NW2d 382 (2006). The circuit court erred by finding that the case presented "special aspects" under *Lugo v Ameritech Corp, Inc*, 464 Mich 512, 516; 629 NW2d 384 (2001). The risk of slipping on icy or snow-covered pavement does not rise to the level of a "uniquely high likelihood of harm or severity of harm" so as to "remove that condition from the open and obvious danger doctrine" under *Lugo*. *Royce v Chatwell Club Apartments*, 276 Mich App 389, 395-396; 740 NW2d 547 (2007); *Corey v Davenport College of Business (On Remand)*, 276 Mich App 389, 396-397; 649 NW2d 392 (2002). Accordingly, defendant is entitled to summary disposition of plaintiff's premises liability claims as a matter of law.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 02 2010
Date

Sandra Schultz Mengel
Chief Clerk